

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JESS RICHARD SMITH,

Petitioner,

v.

JEFFREY A UTTECHT,

Respondent.

Case No. C19-768-BJR

ORDER OF TRANSFER

Having reviewed the Report and Recommendation of the Honorable Michelle L. Peterson, United States Magistrate Judge, any objections or responses to that, and the remaining record, the Court finds and ORDERS:

(1) The Court ADOPTS the Report and Recommendation.

(2) The habeas petition is construed as a request for permission to file a second or successive petition, and this case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631 and Ninth Circuit Rule 22-3.

(3) Petitioner is advised that this transfer does not of itself constitute compliance with § 2244(b)(3) and Ninth Circuit Rule 22-3; he must still file a motion for leave to proceed in the Court of Appeals and make the showing required by § 2244(b)(2).

1 (4) The Clerk is directed to close this case and to transfer all original documents to
2 the Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the petition and
3 this Order in the file. The Clerk shall also direct copies of this Order to the parties and to Judge
4 Peterson.

5 Dated this 27th day of May, 2020.

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8 BARBARA J. ROTHSTEIN
United States District Judge
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